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U.S. Department of Justice

United States Attorney
Southern District of New York~~ENDORSED~~The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

December 13, 2007

By Federal Express

The Honorable Kenneth M. Karas
United States District Court
Southern District of New York
300 Quarropos Street, Room 533
White Plains, NY 10601

Re: *United States v. Vito Forestier*
05 Cr. 1280 (KMK)

MEMO ENDORSED

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DATE FILED: _____

Dear Judge Karas:

The Government submits this letter in response to defense counsel's request, dated November 29, 2007, to unseal pages 517 through 519 of the trial transcript for purposes of appeal. The Government objects to defense counsel's request based on the same serious safety concerns that motivated the Government's application for the sealed transcript at trial. At trial, the Court properly determined that the Government's proffer should be provided *ex parte* and under seal based on legitimate safety concerns. These same safety concerns continue to apply at the present time. The defendant's interest in a complete record on appeal does not outweigh the Government's interest in keeping this portion of the transcript sealed. Moreover, the Second Circuit will have access to the sealed portion of the transcript and will be able to determine if any of it has any bearing on the defendant's appellate arguments. Accordingly, defense counsel's request should be denied and the transcript should remain sealed.

(Based on the Government's representation that the scaled portion of the transcript will be available to the Second Circuit, the Court denies Mr. Forestier's application. The same reasons By: Michael J. Garcia, United States Attorney, Brendan R. McGuire, Michael Q. English, Assistant United States Attorneys (212) 637-2220 / 2594 (continued sealing.)

cc: Barry D. Leiwant, Esq. *SUPERIOR*

KENNETH M. KARAS U.S.D.J.

12/17/07